

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9: -

Chapter

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Docket 0

Tentative Ruling:

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

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CONT...

Chapter

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:16-11961 William Michael Baxter

Chapter 13

#1.00 HearingRE: [94] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 905 Appleton Road, Simi Valley, California 93065 with proof of service. (Arnold, Jenelle)

Docket 94

Tentative Ruling:

June 7, 2022

Appearances required.

U.S. Bank N.A. (the "Bank") has filed a motion to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) for "cause" in that the Bank asserts that William Baxter ("Mr. Baxter") has failed to make, as of May 2, 2022, twenty-three (23) post-petition mortgage payments regarding his mortgage with U.S. Bank on that parcel of real property located at 905 Appleton Road, Simi Valley (the "Property"). *See* Docket No. 94. It appears that under the CARES Act, in April 2020, Mr. Baxter suspended payments to U.S. Bank regarding the Property. *See* Docket No. 91. Payments were made in August 2020 and March 2021, but even with these payments, there remains outstanding to U.S. Bank some \$81,882.95 as of May 2, 2022 in terms of post-petition delinquency. *See* Docket No. 94, p. 9.

Mr. Baxter applied for a loan modification in February 2022, but Wells Fargo, the servicer of the loan, denied the request on February 22, 2022. *See* Docket No. 91, Exhibit B. The denial of the loan modification request provided Mr. Baxter with thirty-six (36) days to appeal the denial. *Id.*

Mr. Baxter's Chapter 13 Plan has expired on its own terms, and the Chapter 13 Trustee, based on the amounts owed to U.S. Bank, has moved this Court to dismiss the instant case (the "Motion to Dismiss"). *See* Docket No. 87. The Debtor's sole opposition to the Motion to Dismiss is that they are seeking a loan modification with U.S. Bank, but, as referenced above, that request was denied, and the appeal period seems to have lapsed. *See* Docket No. 88.

**United States Bankruptcy Court
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CONT... William Michael Baxter

Chapter 13

At the hearing, the Court will inquire about the agreed terms, if any, regarding the forbearance, and any updates on an attempted loan modification.

Party Information

Debtor(s):

William Michael Baxter

Represented By
John K Rounds

Movant(s):

U.S. Bank National Association, as

Represented By
Jenelle C Arnold
Josephine E Salmon

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:17-10808 Mario Ybarra and Sonja Maria Ybarra

Chapter 13

#2.00 CONTD. Hearing
RE: [68] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 934 Colebrook Drive, Santa Maria, California 93458 . (Arnold, Jenelle)

FR. 6-22-21, 8-3-21, 9-14-21, 11-2-21, 12-21-21, 1-18-22, 2-8-22, 4-5-22, 5-10-22

Docket 68

***** VACATED *** REASON: Stipulated Adequate Protection Order was Entered on 5/12/22.**

Tentative Ruling:

Party Information

Debtor(s):

Mario Ybarra

Represented By
Jerry Namba

Joint Debtor(s):

Sonja Maria Ybarra

Represented By
Jerry Namba

Movant(s):

Select Portfolio Servicing, Inc. as

Represented By
Jenelle C Arnold

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:19-12070 Christopher E Orloff

Chapter 13

#3.00 HearingRE: [75] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2255 Northpark Street, Thousand Oaks, California 91362 . (Arnold, Jenelle)

Docket 75

Tentative Ruling:

June 7, 2022

Appearances required.

Wells Fargo Bank, N.A. (the "Bank") moves for relief from the automatic stay due to the lack of post-petition mortgage payments (6 post-petition, pre-confirmation and 21 post-confirmation) totaling \$84,008.66.

It appears the last payment was made in January 2020.

The Court will inquire about the forbearance agreement's terms, if any.

Party Information

Debtor(s):

Christopher E Orloff

Represented By
Julie J Villalobos

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Jenelle C Arnold

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:20-10167 Darryl Lee Gregory and Annette Marie Lozano Gregory

Chapter 13

#4.00 CONT'D Hearing
RE: [62] Notice of motion and motion for relief from the automatic stay with
supporting declarations REAL PROPERTY RE: 190 Inverness Avenue, Lompoc,
California 93436 .

FR. 1-11-22, 4-5-22

Docket 62

Tentative Ruling:

June 7, 2022

Appearances required.

The Court will inquire about the debtor's opposition at the hearing.

Party Information

Debtor(s):

Darryl Lee Gregory

Represented By
Chris Gautschi

Joint Debtor(s):

Annette Marie Lozano Gregory

Represented By
Chris Gautschi

Movant(s):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:20-10237 Annelie K Messina

Chapter 13

#5.00 CONT'D Hearing

RE: [48] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 102 Puesta Del Sol, Oak View, CA 93022 Under 11 U.S.C. § 362. (Stevenson, Richard)

FR. 5-3-22

Docket 48

***** VACATED *** REASON: Withdrawal of motion was filed on 5/10/22.**

Tentative Ruling:

Party Information

Debtor(s):

Annelie K Messina

Represented By
Julie J Villalobos

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Gwendolyn C McClain
Sharon Harris
Richard L. Stevenson

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:20-10770 Daniel James Greeding

Chapter 13

#6.00 HearingRE: [30] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 462 Glenwood Pl, Thousand Oaks, CA 91362 . (Weifenbach, Diane)

Docket 30

***** VACATED *** REASON: Stipulated Adequate Protection Order was
Entered on 6/7/22.**

Tentative Ruling:

June 7, 2022

No appearance required.

An APO has been entered by the Court on June 7, 2022.

Party Information

Debtor(s):

Daniel James Greeding

Represented By
Julie J Villalobos

Movant(s):

U.S. BANK NATIONAL

Represented By
Diane Weifenbach

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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10:00 AM

9:20-10853 Rosa Olmedo

Chapter 13

#7.00 HearingRE: [37] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 404 EMBASSY AVE, SANTA MARIA, CA 93458 . (Khil, Christina)

Docket 37

***** VACATED *** REASON: Stipulated Adequate Protection Order was
Entered on 6/7/22.**

Tentative Ruling:

June 7, 2022

No appearances required.

The Court has entered an APO.

Party Information

Debtor(s):

Rosa Olmedo

Represented By
Yelena Gurevich

Movant(s):

CMG Mortgage, Inc.

Represented By
Christina J Khil

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Hearing Room 201

10:00 AM

9:21-10541 Jonathon Quentin DeGuardi

Chapter 13

#8.00 CONT'D Hearing
RE: [73] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4361 Manorview Court, Morrpark, CA 93021 .

FR. 5-3-22

Docket 73

Tentative Ruling:

June 7, 2022

Appearances required.

Party Information

Debtor(s):

Jonathon Quentin DeGuardi

Represented By
Stella A Havkin

Movant(s):

Metropolitan Life Insurance

Represented By
Kristin A Zilberstein
Dane W Exnowski

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:21-10619 John Anthony Wilson

Chapter 13

#9.00 CONT'D Hearing
RE: [50] Notice of motion and motion for relief from the automatic stay with
supporting declarations REAL PROPERTY RE: 3621 Cerrito Street Santa Ynez, CA
93460 . (Nagel, Austin)

FR. 5-3-22

Docket 50

***** VACATED *** REASON: Stipulated Adequate Protection Order was
Entered on 6/7/22.**

Tentative Ruling:

June 7, 2022

Appearances required.

Where do things stand?

Party Information

Debtor(s):

John Anthony Wilson

Represented By
Trang Phuong Nguyen
Gary S Saunders

Movant(s):

Deutsche Bank National Trust

Represented By
Austin P Nagel

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:21-10989 Rory Steven Kaplan

Chapter 13

#10.00 HearingRE: [43] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 776 Roosevelt Court, Simi Valley, CA 93065-8364 . (Nagel, Austin)

Docket 43

Tentative Ruling:

June 7, 2022

Appearances required.

The parties appear to dispute the amounts paid and the amounts owed on a post-petition basis. It appears that at least \$3,635.88 of the dispute relates to a payment made by Mr. Kaplan after the time that the motion was filed. Still, there remains a dispute of approximately \$6,000. The Court will inquire with the parties about the dispute at the hearing, and, absent agreement, will set the matter for an evidentiary hearing.

Party Information

Debtor(s):

Rory Steven Kaplan

Represented By
Richard L. Sturdevant

Movant(s):

HSBC BANK USA, National

Represented By
Austin P Nagel

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Hearing Room 201

10:00 AM

9:21-11008 Loren Nauta

Chapter 13

#11.00 CONT'D Hearing

RE: [26] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5770 Vista Serrano Way, Paso Robles, California 93446 .

FR. 3-1-22, 3-29-22, 5-3-22

Docket 26

Tentative Ruling:

June 7, 2022

Appearances required.

The Debtor filed an amended plan on March 17, 2022. *See* Docket No. 35. The plan confirmation hearing has been continued. The Debtor asserts that it is making adequate protection payments as it actively markets the real property at issue. The Court will inquire as to the sale efforts, the payments made since the Motion was filed, and any updates by the Debtor and Movant.

Party Information

Debtor(s):

Loren Nauta

Represented By
Michael D Kwasigroch

Movant(s):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Hearing Room 201

10:00 AM

9:21-11092 Manuel R Contreras

Chapter 13

#12.00 Hearing
RE: [19] Notice of motion and motion for relief from the automatic stay with
supporting declarations PERSONAL PROPERTY RE: 2016 Harley-Davidson
FLSTC Heritage Softail Classic . (Martinez, Kirsten)

FR. 5-3-22

Docket 19

Tentative Ruling:

June 7, 2022

Appearances required.

The Court will inquire as to the need for the motions in light of the amended Chapter 13 plan.

Party Information

Debtor(s):

Manuel R Contreras

Represented By
Nathan A Berneman

Movant(s):

Harley-Davidson Credit Corp, as

Represented By
Kirsten Martinez
Austin P Nagel

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 201

10:00 AM

9:21-11092 Manuel R Contreras

Chapter 13

#13.00 Hearing
RE: [20] Notice of motion and motion for relief from the automatic stay with
supporting declarations PERSONAL PROPERTY RE: 2016 Harley-Davidson
FLSTC Heritage Softail Classic . (Nagel, Austin)

FR. 5-3-22

Docket 20

Tentative Ruling:

June 7, 2022

See Matter # 12.

Party Information

Debtor(s):

Manuel R Contreras

Represented By
Nathan A Berneman

Movant(s):

Harley-Davidson Credit Corp, as

Represented By
Kirsten Martinez
Austin P Nagel

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:22-10046 Domenick Medina, Jr.

Chapter 13

#14.00 CONT'D Hearing
RE: [31] Motion to Avoid Lien Notice Of Motion And Motion To Avoid Junior Lien
On Principal Residence

FR. 4-21-22, 5-17-22

Docket 31

Tentative Ruling:

Party Information

Debtor(s):

Domenick Medina Jr.

Represented By
Raymond H. Aver

Movant(s):

Domenick Medina Jr.

Represented By
Raymond H. Aver
Raymond H. Aver

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:22-10098 Sandra Maria Royster

Chapter 7

#15.00 HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1355 Tepusquet Road, Santa Maria, CA 93454 .

Docket 10

Tentative Ruling:

June 7, 2022

Appearances required.

Bank United, N.A. ("Movant") moves this Court for relief from the automatic stay (the "Motion") related to a parcel of real property commonly referred to as 1355 Tepusquet Road, Santa Maria, CA 93454 (the "Property"). *See* Docket No. 10. Movant argues that the Debtor has no equity in the Property and that Movant is not adequately protected in the Property, which therefore entitles Movant to relief from the stay. *Id.* at pp. 3-4. The Debtor does, however, have equity in the Property totaling no less than \$70,266.69, according to Movant. *Id.* at p. 9. Movant has also failed to show that it is not adequately protected in the Property. There is no less than \$70,266.69 in equity by Movant's own admission (*see In re Pitts*, 2 B.R. 476, 478 (Bankr. C.D. Cal. 1979); *see also In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984)), and the Court is unable to determine from reviewing the Motion whether the Debtor is making payments on the mortgage post-petition (*see* 11 U.S.C. § 361(1)). Proof of the lack of equity prong of 11 U.S.C. § 362(d) is a burden that lies with the movant. *See In re Bialac*, 712 F.2d 426, 432 (9th Cir. 1983). Movant has failed in this task.

The Debtor filed a statement in opposition to the Motion, asserting that a mortgage forbearance through the California Relief Program was pending, subject only to the Debtor obtaining a discharge. *See* Docket No. 12, p. 2. The Debtor provides no evidence of this other than conclusory assertions by the Debtor in their declaration. The Court has no way to determine what the potential terms of this purported "forbearance" is/would be, the timing of such "forbearance," and what the result of the "forbearance" on Movant would be.

**United States Bankruptcy Court
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CONT... Sandra Maria Royster

Chapter 7

The Court at the hearing will request that the parties address the aforementioned issues.

Party Information

Debtor(s):

Sandra Maria Royster

Represented By
Rabin J Pournazarian

Movant(s):

Bank United, N.A.

Represented By
Nichole Glowin

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

10:00 AM

9:22-10262 Casey Ray Bradshaw and Ana Karen Bradshaw

Chapter 7

#16.00 HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Ram 2500 .

Docket 11

Tentative Ruling:

June 7, 2022

No appearances required.

Before the Court is a motion (the "Motion") to lift the automatic stay related to a 2019 Ram 2500, VIN 3C6TR5EJJKG661806 (the "Vehicle"). *See* Docket No. 11. Movant asserts that the Vehicle is eroding in value, that the amount owed on the Vehicle is more than the value of the Vehicle, that the Debtor is not making post-petition payments on the Vehicle, that the Vehicle is not necessary for a reorganization by the Debtor, and that the Debtor informed the parties in their Schedules that the Vehicle would be surrendered to Movant. *Id.* These factors, Movant argues, entitles Movant to relief from the stay pursuant to 11 U.S.C. §§ 362(d)(1) and (2). The Debtor has not opposed the Motion.

Based on the evidence presented, the Court grants the Motion pursuant to 11 U.S.C. §§ 362(d)(1) and (2), and waives the 14 day stay provided for under Fed. R. Bankr. P. 4001.

Movant to lodge order within 7 days.

Party Information

Debtor(s):

Casey Ray Bradshaw

Represented By
Steven A Alpert

Joint Debtor(s):

Ana Karen Bradshaw

Represented By
Steven A Alpert

**United States Bankruptcy Court
Central District of California
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CONT... Casey Ray Bradshaw and Ana Karen Bradshaw

Chapter 7

Movant(s):

CoastHills Credit Union

Represented By
Karel G Rocha

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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10:00 AM

9:22-10262 Casey Ray Bradshaw and Ana Karen Bradshaw

Chapter 7

#17.00 HearingRE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Jayco Jay Flight SLX 8, 267BHSW .

Docket 13

Tentative Ruling:

June 7, 2022

No appearances required.

The Motion seeks a lifting of the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (2) related to a 2020 Jayco Jay Flight SLX 8, 267BHSW (the "Trailer") for the reasons that (1) there exists no equity in the Trailer, (2) the Trailer is not required for an effective reorganization by the Debtor, (3) the Debtor identified in its *Statement of Intention* that they would surrender the Trailer, (4) the Trailer is eroding in value, and (5) the Debtor is not making payments on the Trailer post-petition. *See* Docket No. 13. The Debtor has not opposed the Motion.

The Court grants the Motion pursuant to 11 U.S.C. §§ 362(d)(1) and (2), and waives the 14 day stay provided for under Fed. R. Bankr. P. 4001.

Movant is to lodge a conforming order within 7 days.

Party Information

Debtor(s):

Casey Ray Bradshaw

Represented By
Steven A Alpert

Joint Debtor(s):

Ana Karen Bradshaw

Represented By
Steven A Alpert

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10:00 AM

CONT... Casey Ray Bradshaw and Ana Karen Bradshaw

Chapter 7

Movant(s):

CoastHills Credit Union

Represented By
Karel G Rocha

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Tuesday, June 7, 2022

Hearing Room 201

2:00 PM

9:19-11737 Clifford G. Henthorne and Marcelina Henthorne

Chapter 13

#18.00 HearingRE: [53] Motion for Authority to Refinance Real Property (Ch 13) Notice and Motion for Authority to Refinance Real Property with proof of service

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Clifford G. Henthorne

Represented By
Michael B Clayton

Joint Debtor(s):

Marcelina Henthorne

Represented By
Michael B Clayton

Movant(s):

Clifford G. Henthorne

Represented By
Michael B Clayton

Marcelina Henthorne

Represented By
Michael B Clayton

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
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Tuesday, June 7, 2022

Hearing Room 201

2:00 PM

9:20-11020 Rowland W. Twisselman and Catherine A. Twisselman

Chapter 12

#19.00 Hearing
RE: [147] and [149] OBJECTION TO CLAIM NO. 4 OF JPMORGAN CHASE
BANK, N.A.

Docket 147

***** VACATED *** REASON: Continued to July 5, 2022, at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rowland W. Twisselman

Represented By
William C Beall
Carissa N Horowitz

Joint Debtor(s):

Catherine A. Twisselman

Represented By
William C Beall
Carissa N Horowitz

Movant(s):

Rowland W. Twisselman

Represented By
William C Beall
William C Beall
William C Beall
William C Beall
William C Beall
William C Beall
William C Beall
Carissa N Horowitz
Carissa N Horowitz
Carissa N Horowitz
Carissa N Horowitz
Carissa N Horowitz

**United States Bankruptcy Court
Central District of California
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Ronald A Clifford III, Presiding
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Hearing Room 201

2:00 PM

CONT... Rowland W. Twisselman and Catherine A. Twisselman Chapter 12

Carissa N Horowitz
Carissa N Horowitz

Catherine A. Twisselman

Represented By
William C Beall
William C Beall
Carissa N Horowitz
Carissa N Horowitz

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Ronald A Clifford III, Presiding
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Tuesday, June 7, 2022

Hearing Room 201

2:00 PM

9:20-11020 Rowland W. Twisselman and Catherine A. Twisselman

Chapter 12

#20.00 Hearing

RE: [151] OBJECTION TO CLAIMS NO. 1 AND 5 OF DISCOVER BANK

Docket 151

Tentative Ruling:

June 7, 2022

No appearance required.

Before the Court is an objection (*Objection to Claims No. 1 and 5 of Discover Bank*) to two (2) separate claims filed by the same creditor, Discover Bank (the "Objection"). See Docket No. 151. Claim No.1 is in the amount of \$20,975.65 for a credit card account, account number ending in 9423, and ostensibly in the name of Rowly W. Twisselman ("Claim No. 1). *Id.* at Exhibit F. Claim No. 2 is in the amount of \$18,130.34 for a credit card account, account number ending 0113, and apparently in the name of Catherine Twisselman ("Claim No. 2"). *Id.* at Exhibit G.

The Objection proclaims that both underlying credit cards that comprise Claim Nos. 1 and 5 were fraudulently used by a past bookkeeper of the Debtors. *Id.* at p. 2, lines 3-4. Cited in the Objection is a "\$0 liability fraud' guarantee," that Discover Bank professedly offers to its credit card clients, whereby their clients are not held accountable for any fraudulent use of their credit cards. *Id.* at lines 15-16; *see also* Exhibit B. The Debtors assert that they made payments to Discover Bank for legitimate charges on the underlying credit cards (i.e., charges that they argue were not fraudulently made by their former bookkeeper) that exceed the amount of those legitimate charges, and so, employing the "\$0 liability fraud' guarantee," the Debtors argue that they are not indebted to Discover Bank.

Federal Rule of Bankruptcy Procedure (the "Rules") 3002(a) provides in relevant part that "[a]n [] unsecured creditor [] must file a proof of claim [] for the claim [] to be allowed..." Rule 3001(c)(3)(A) provides that:

When a claim is based on an open-end or revolving consumer credit

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Chapter 12

agreement [] a statement shall be filed with the proof of claim, including all of the following information that applies to the account: (i) the name of the entity from whom the creditor purchased the account; (ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account; (iii) the date of an account holder's last transaction; (iv) the date of the last payment on the account; and (v) the date on which the account was charged to profit and loss.

Pursuant to 11 U.S.C. § 502(a), a timely and properly filed proof of claim "is deemed allowed, unless a party in interest [] objects." Rule 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." This Court's Local Rule 3007-1(c) (1) provides that "[a]n objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with [Rule] 3001."

"To defeat the claim, the objector must come forward with sufficient evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell v. Anchor Const. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (internal citation omitted).

The Objection does not contest that Claim Nos. 1 and 5 were appropriately and timely filed in accordance with Rule 3001, therefore, Claim Nos. 1 and 5 enjoy prima facie validity, placing the burden on the Debtors to support the Objection with admissible evidence sufficient to overcome the probative force of the Claims. The Debtors have failed to do so.

The starting point here, it seems to the Court, is that of the evidence provided by the Debtors through the Objection. The Debtors assert that the "fraudulent purchases" occurred between the years 2017-2020. *See* Objection, p. 3, lines 14-15. The purported "'\$0 liability fraud' guarantee" is a press release from 2006. *Id.* at Exhibit B. There is no proof that this press release was still in existence at the time the Debtors' cards were used from 2017 through 2020, that the press release was a Discover Bank policy that applied to the Debtors' credit cards, or what the process of any such policy is/was. There is also no indication of when this press release was

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even downloaded, which is important given how old the policy is as compared to the alleged fraudulent acts. The statements attached to Claim Nos. 1 and 5 specifically refer the Debtors to their "Cardmember Agreements," which, if the no-fraud policy applies to these credit cards, are the agreements that would provide the evidence of this policy for the credit cards at issue.

In terms of the process, the Objection seems to suggest that just because the Debtors allege fraud with Discover Bank, and because there may be a zero-fraud liability policy in place, that the Debtors are not liable for any of these charges, full stop. That would be nonsensical, and that does not appear to be the policy of Discover Bank. What does appear to be the policy is that the Debtors would lodge a complaint of fraud, it would be investigated by Discover Bank, and Discover Bank would provide credits to the Debtors' credit card accounts, or not, based on the result of that investigation. That is precisely what occurred here. Discover Bank made several "Security Dispute Adjustments" to the credit card accounts in question, totaling thousands of dollars. *Id.* at Exhibit E. Other than providing a two-year old police report and a declaration asserting that the Debtors' past bookkeeper defrauded them, the Debtors have not provided any admissible evidence that would overcome the prima facie showing that Claim Nos. 1 and 5 enjoy.

The Court overrules the Objection without prejudice.

The Debtors are to lodge a conforming order within 7 days.

Party Information

Debtor(s):

Rowland W. Twisselman

Represented By
William C Beall
Carissa N Horowitz

Joint Debtor(s):

Catherine A. Twisselman

Represented By
William C Beall
Carissa N Horowitz

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Movant(s):

Rowland W. Twisselman

Represented By

William C Beall

William C Beall

William C Beall

William C Beall

William C Beall

William C Beall

William C Beall

Carissa N Horowitz

Carissa N Horowitz

Carissa N Horowitz

Carissa N Horowitz

Carissa N Horowitz

Carissa N Horowitz

Carissa N Horowitz

Catherine A. Twisselman

Represented By

William C Beall

William C Beall

Carissa N Horowitz

Carissa N Horowitz

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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Chapter 7

#21.00 CONT'D Hearing RE:
(1) Motion to Approve Compromise Under Rule 9019 (Docket no.73), and
(2) Order to Show Cause Re: Sanctions

FR. 4-5-22, 5-3-22

Docket 73

Tentative Ruling:

June 7, 2022

Appearances required.

Party Information

Debtor(s):

Sergio Garcia Villanueva

Represented By
Matthew D. Resnik

Movant(s):

Jerry Namba (TR)

Represented By
William C Beall
Carissa N Horowitz

Trustee(s):

Jerry Namba (TR)

Represented By
William C Beall
Carissa N Horowitz

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Chapter 7

#22.00 CONT'D Hearing
RE: [93] Motion to compel Trustee to sell property to movant and proof of
service

FR. 5-3-22

Docket 93

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sergio Garcia Villanueva

Represented By
Matthew D. Resnik

Movant(s):

Ana Yerena Garcia

Represented By
Michael D Kwasigroch

Trustee(s):

Jerry Namba (TR)

Represented By
William C Beall
Carissa N Horowitz